

BOARD OF FORESTRY AND FIRE PROTECTION

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MINUTES BOARD OF FORESTRY AND FIRE PROTECTION April 2 & 3, 2002 Sacramento, California

MEMBERS PRESENT:

Stan Dixon, Chairman
Mark Bosetti
Robert Heald
Kirk Marckwald
Tharon O'Dell
Gary Rynearson

BOARD STAFF PRESENT:

Daniel R. Sendek, Executive Officer
George Gentry, Executive Officer, Foresters Licensing
Donna Stadler, Executive Assistant

DEPARTMENTAL STAFF:

Andrea Tuttle, Director
Ross Johnson, Deputy Director/Resource Management
Dean Lucke, Assistant Deputy Director
Gerald Ahlstrom, Forest Practice Staff Chief
Jim Mote, Regulations Coordinator

CALL TO ORDER

Chairman Dixon called the April 2002 Board of Forestry and Fire Protection meeting to order.

REPORT OF THE EXECUTIVE SESSION

Chairman Dixon reported that there were no actions taken in Executive Session.

APPROVAL OF MINUTES

Chairman Dixon announced that the March and April minutes would be available for approval at the May meeting of the Board.

REPORT OF THE CHAIRMAN

Chairman Dixon introduced and welcomed the new Foresters Licensing Executive Officer, George Gentry.

REVIEW AND CONSIDERATION OF THE MARIN COUNTY ACTION PLAN ADDRESSING SUDDEN OAK DEATH HAZARD TREE REMOVAL AND DISPOSITION

Mr. Stephen Jones, Deputy Chief, Pest Management, presented the Marin County Sudden Oak Death (SOD) Hazardous Tree Assessment, Removal, and SOD Restoration Plan to the Board. He referred to the Marin County Administrator's letter, in the Board's binder, indicating the Marin County Board of Supervisors approval and request for Board approval of the Plan. He provided the Board with background regarding SOD. The Governor provided funding for SOD during the current 2001-02 fiscal year and AB 62 provided specific information on how the Department was to spend the funds. He reviewed, for the Board, the items the Department and the COMTF believed necessary to be in the County Plans.

Mr. Fred Crowder, Marin County Deputy Agricultural Commissioner, provided the Board with a copy of the February 25, 2002, document: Draft Restoration of Oak Woodlands Impacted by SOD. He reviewed the guidelines in the process of evaluating tree and site resources and planning actions for the Board. The goal is to provide homeowners and resource managers a general framework that will allow them to make informed decisions about restoration in the areas that have been impacted by SOD. He then asked that the Board review the proposal.

Mr. Heald referred to page three of the letter in the Board's binder, regarding jurisdiction, and wanted to know where Marin County Fire fit into the process.

Mr. Crowder indicated that Marin County Fire is primarily in an advisory capacity.

Mr. Heald suggested a wording change under the Restoration Process, replacing the word "will" with the word "may" include replacement of hazard trees".

Mr. Crowder noted that suggested change.

There was further discussion.

Chairman Dixon asked for Board action regarding the Marin County Plan before them.

02-04-1 Mr. Rynearson moved to approve the plan presented by Marin County as amended. Mr. Marckwald seconded the motion, and all were in favor.

Chairman Dixon commended Marin County for its effort and the work of the task force.

ELECTION OF BOARD VICE CHAIRMAN

Chairman Dixon noted that the Public Resources Code requires the Board to elect its own Vice Chairman. He asked members for nominations.

02-04-2 Mr. Rynearson commented that any of the members would make an excellent Vice Chairman. However, he moved to nominate Member Marckwald for the position. Mr. O'Dell seconded the motion, and all were in favor.

REPORT OF THE OAK MORTALITY TASK FORCE

Ms. Katie Facino, Information Officer for the California Oak Mortality Task Force (COMTF), provided the Board with an update of the Task Force's activities by reviewing the report in the Board's binder. She noted that USA Today would be conducting a study on Sudden Oak Death (SOD).

Ms. Facino announced that the end of the comment period for the United States Department of Food and Agriculture's federal quarantine regulations for *Phytophthora ramorum* is April 15, 2002.

Ms. Facino reported that on March 13, 2002, the Task Force and California Department of Food and Agriculture (CDFA) sponsored a "Basic Management of Sudden Oak Death on Forestlands" training session. It was the first of two sessions offered for those responsible for sampling, confirming the presence of SOD, preparing for timber or firewood sales, and enforcing SOD regulations. The second training session will be held on April 10, 2002, in Corte Madera.

Ms. Facino reported that on April 15, 2002, AB2251, calling for \$6.2 million in state funds for SOD management, monitoring, research, and education would be heard.

Ms. Facino noted that the research is ongoing. She then announced that the next COMTF meeting would be held on May 14 and 15, 2002, in Santa Rosa. Presenters will be from California, Oregon, and the East Coast.

Mr. Ryneanson commented that he attended the first session and it was excellent, well organized and presented.

Mr. Marckwald asked if the Administration had taken a position on the AB2251.

Mr. Mark Stanley, Assistant Deputy Director, Resource Management, replied that the Administration has not taken a position at this point. The Bill is still being analyzed and is going through some edits. The Administration can only respond to questions at this point. The regulations are constantly changing. The CDFA is looking at having pest applicators and other licensed professionals, that have attended the training, take samples for diagnostic purposes. He noted that they cannot charge for the service of diagnostics since that is being done through the CDFA lab.

REPORT OF FEDERAL AGENCIES INCLUDING USDA FOREST SERVICE, NATIONAL MARINE FISHERIES SERVICE, US FISH & WILDLIFE SERVICE AND US ENVIRONMENTAL PROTECTION AGENCY

Mr. Mike Chapel, USDA Forest Service, announced that Regional Forester, Jack Blackwell, was ill and unable to attend today's meeting. Possibly he will be able to attend the Board's June meeting in Marin County.

Mr. Chapel referred to the National Fire Plan accomplishments handout and reviewed it for the Board. There was a target of 180,000 acres in California last year. The Forest Service was able to accomplish 82 percent of that target. He noted that last year was not a good year for prescribed fire. About 110,000 acres were done through mechanical means. He reported that the Draft EIR for the Sequoia National Monument project would be available sometime in May. The Sierra Framework Review is still only beginning. They are trying to focus on the most important questions about the Record of Decision. The intent is to finish the review and provide recommendations to the Regional Forester before the end of the year.

CONSIDERATION OF A PROPOSED LEAD AGENCY AGREEMENT

Chairman Dixon introduced the topic.

Mr. Rynearson noted a potential conflict of interest and recused himself from the discussion and any potential action.

Mr. Norm Hill, Chief Counsel for the Department, reported that the Department was developing a Management Plan for Jackson Demonstration State Forest as well as an EIR for that Plan. The development and approval of a Management Plan is an action subject to CEQA. The Plan will come before the Board for approval as required by the Public Resources Code. There have been a number of concerns expressed that CDF was working as the Lead Agency. The Lead Agency is the agency that will administer the CEQA process. He then reviewed the criteria for the role of Lead Agency under CEQA. If the Agency is carrying out the project, then it should be the Lead Agency. If the activity is being carried out by a private entity needing public approval, the Lead Agency should be the agency that has the greatest responsibility and involvement with the project. If there is a dispute as to which agency involved should be the Lead Agency, it would be the first agency to act, so that there is CEQA compliance at the earliest time feasible. Should there still be agencies with claims to Lead Agency, the issue can be resolved by a Lead Agency Agreement, which is an agreement between CDF and the Board. He referred to the Board's binder and reviewed the copy of the proposed Lead Agency Agreement for the Board. The Agreement proposes that CDF serve as the Lead Agency for the project, and the Board act as Responsible Agency for the project. CDF would submit the Plan to the Board for approval with an EIR. The Agreement will provide an opportunity for agencies and members of the public to address the Board on the merits of the plan, and the environmental effects of the Board's action on the Plan, once it is submitted by CDF. He then asked for Board approval of the Lead Agency Agreement.

There was a discussion regarding the duties and responsibilities of the Lead Agency.

Mr. Marckwald commented that perhaps the Board should wait 30-days after the certification of the EIR before acting upon it in an effort to avoid entanglement with possible lawsuits.

Mr. Hill explained that the statute does not require that the Board wait the 30-days. The 30-days statute of limitation that applies to a CEQA challenge is not a waiting period.

Mr. Matthew Campbell, Deputy Attorney General and Board's Counsel, acknowledged Mr. Hill as one of the leading experts in the CEQA process and indicated that he supports the premise of the Agreement and that it was appropriate for the Board to enter into the Agreement before it today.

Mr. Richard Gienger commented that he believes that it would be more appropriate for the Board to be the Lead Agency with the Department as overseers.

Mr. Marckwald commented that he was comfortable with CDF being the Lead Agency and the Board being the responsible agency. He believes that it is important for the Board to monitor and comment on the draft along the way, and for the public to have an opportunity to provide input. He recommended that the Board allow the certified EIR sit on the table as long as necessary in order for it to meet legal requirements. He believes that should there be any challenge to the EIR, the Board should know what is happening with that before it approves the Plan.

Mr. Heald indicated that he was also comfortable with the agreement. He believes that Member Marckwald's suggestion regarding the 30 days could be looked at when the Board receives the certified document. The important issue with the EIR is that it be complete and available to public comment and response to comment.

Mr. O'Dell said that the work to date has been openly debated, but reserving the Board's oversight responsibility is essential. He believes that the Department, being the managing agency of the Jackson State Demonstration Forest, should have the Lead Agency capacity to carry out their functions. He indicated that he would like to wait for the EIR document before making a decision on the 30-day issue.

Mr. Bosetti also agreed with Member O'Dell regarding the 30-day issue.

Mr. Heald called the Department's attention to a typographical error on page two, item G (a), in the last sentence the word should be "setting."

02-04-3 Mr. Heald move to accept the Lead Agency Agreement as amended. Mr. O'Dell seconded the motion, and all were in favor.

CONSIDERATION OF A BOARD POLICY STATEMENT AS REQUESTED BY THE ORE-CAL RESOURCE CONSERVATION AND DEVELOPMENT COUNCIL

Chairman Dixon introduced the topic.

Mr. Daniel Sendek, Executive Officer of the Board, provided background on the Ore-Cal request for Board support. He referred to the Position Statement in the Board's binder. He noted that it had been reviewed by Board's Counsel and found to be acceptable for Board approval.

Mr. Heald expressed concern regarding a sentence in point four of the Position Statement that he believed did not follow the intent.

Mr. Marckwald agreed with Member Heald and suggested that the words "through this position statement" be added following "not subject to."

Mr. Sendek then read the correction to bullet point four of the Position Statement into the record. "As such, designation of highways as All American Roads as described does not fall within the criteria of the Special Treatment Area designation under the existing rules and regulations of the Board."

02-04-4 Mr. O'Dell moved to approve the Position Statement as amended. Mr. Marckwald seconded the motion, and all were in favor.

ADVISORY COMMITTEE REPORTS

RANGE MANAGEMENT ADVISORY COMMITTEE (RMAC)

Mr. J. R. McCollister, Chairman of the RMAC, reported that the last meeting of RMAC was on February 20 and 21, 2002. The Committee heard agency reports and a briefing on AB 1993. There was some discussion on how the Legislation process would unfold. There was no quorum at the meeting. Then next RMAC meeting is scheduled for April 11, 2002, in Sacramento.

PRESENTATION ON THE SURVEY OF RIPARIAN GRAZING AND STREAM HEALTH AND WATER RESOURCE THREATS ON RANGELAND WORKSHOPS

Dr. Kenneth Tate, UCD Rangeland Watershed Specialist, provided a Power-Point presentation on the Survey of Riparian Grazing and Stream Health and Water Resource Threats on Rangeland workshops. He indicated that the workshops were designed for natural resource professionals.

The ranchers believe that they are receiving conflicting information from the natural resource professionals. There is a need to minimize confusion on what the threat is and how to resolve it. There were four workshops held from January through March of this year. Some of the main topics were road culverts, stream crossings, and grazing in riparian areas. (A copy of the presentation was provided for the record). He noted that more workshops are being planned.

PUBLIC FORUM

Mr. Richard Gienger wanted to know what progress the Department has made regarding the selection of Native American Advisory Committee members and if any meeting dates had been set. He commented on the in-depth assessment of issues, and believes that there needs to be continued focus on Oak woodlands. He commented that he is pleased to see the efforts being made on the Roads package.

Mr. Robert Di Perna, EPIC, expressed EPIC's concerns regarding the issue of herbicide use. He provided the Board with a handout showing forestry herbicide use in Shively, California from 1996 to 1999. He reviewed the handout for the Board.

Mr. Bernie Bush, Redwood Creek Landowners Association (RCLA), reported that the RCLA requests that the Board monitor the process of Program Herbicide usage. He noted that the Resources Agency invited the RCLA to meet with them to express its concerns. Legislative timelines are not realistic. He asked that the Board give direction to its staff to monitor the progress on this issue. He acknowledged that there are a lot of important issues, but believes that this one needs to stay in front of the Board. The use of herbicides in California is heavily regulated. Herbicide products are registered twice, similar to that of pharmaceutical products for human consumption. He then provided background on that process for the Board.

Mr. Mark Rentz, California Forestry Association (CFA), referred to an article on Salmonid stocking and suggested that the National Marine Fisheries Service and Department of Fish and Game be prepared to discuss this issue during the Joint meeting of the Board and the Fish and Game Commission in May. He provided an update on the NCWAP issue for the Board. The North Coast Regional Water Quality Control Board is in the process of reviewing the draft and incorporating the concerns of interest groups into that document. He then referred to SB 390, which requires that all waivers of waste discharge in California sunset on January 1, 2003., unless the State Water Board has renewed those waivers. He expressed his concern on this issue. He referred to a handout of the Executive Officer's Summary Report regarding Staff Proposal for Regional Water Board Implementation. The report indicates that there is no time or resources and the Legislature did not provide any monies in which to fulfill any obligations under SB 390. It is believed that the renewal of the forestry waiver will not be completed and that it will most likely sunset on December 31, 2002. He encouraged the Board to request feedback from the North Coast Regional Water Board and the State Water Resources Control Board as to what their assessment is on completing this waiver. CFA believes that this is a significant issue for California.

Chairman Dixon reported that he and the Board's Executive Officer had a discussion with the Executive Officer North Coast Regional Water Quality Control Board regarding the possibility of a presentation at the May Joint meeting in Fresno. He indicated that staff would follow-up on that discussion with a letter requesting that presentation.

**HEARING TO CONSIDER AMENDMENT OF §1037.4 AND 1092.19, TITLE 14, CCR,
ADDRESSING EXTENSION OF TIME PERIODS FOR COMMENT ON, AND REVIEW OF, THPs**

Chairman Dixon introduced the topic.

Mr. Jim Mote, Board's Regulation Coordinator, provided an overview for the Board and outlined the proposed changes to the language in § 1037.4 of the California Code of Regulations (CCR). He noted that the same changes are necessary in §1092.19 of the CCRs.

Mr. Jerry Ahlstrom, Resource Management, referred to the Department's letter of support for the proposed changes, in the Board's binder.

Mr. Heald wanted to know what triggers the close of public comment.

Mr. Ahlstrom said that the closing would be at the end of the 30 days from the completion of the pre-harvest inspection.

Mr. Heald suggested striking the phrase "10 of these days shall be after the last interagency review." He noted that there would be either the 30 days or the 15 days, which is the requirement of statute. By not adopting those, which is within the context of the existing 45-Day Notice.

Mr. Ahlstrom agreed.

Mr. Matthew Campbell, Deputy Attorney General and Board's Counsel, said that the question is whether the deletion of the language from the noticed text is non-substantial or solely grammatical in nature. The Board could choose not to adopt that proposed change without further noticing.

Public comment

Richard Gienger said that as he recalled, the Chesbro Bill called for the breakdown in the extension of the 30 days as per the language in 1037.4. He questioned if that would cause any problems. He then expressed concerns regarding the second review-team process in Redding.

Mr. William Hultgren, California Forestry Association (CLFA), said that the proposed changes are some of the briefest changes in a long time. They appear simple, they do represent a step forward in reestablishing a commitment from everyone in the review process. This is a opportunity to make the timetables more concrete. There is, however, no provision for default.

Mr. Kent Stromsmoe indicated that he was in support of the proposed changes. They are a step in the right direction, and he hopes that rule packages will one day be available in electronic form.

02-04-5 Mr. Marckwald moved to close the public hearing. Mr. O'Dell seconded the motion, and all were in favor.

Mr. Marckwald commented that he reviewed the language in the Chesbro Bill and with respect to 1092.19, there is no parallel language in that section. So if the Board follows the recommendation not to adopt the proposed change, the Board would be adopting the Chesbro Bill as proposed.

Mr. Bosetti asked if the Department circulated guidance to field staff on how this might be implemented.

Mr. Ahlstrom said that there have been discussions with field staff on how to put them into effect.

Mr. Bosetti indicated that he would be interested in seeing a copy of those guidelines.

02-04-6 Mr. Ryneearson moved to adopt the proposed rule language as modified, not adopting the parenthetical phrase on page one, lines 19 and 20. Mr. Marckwald seconded the motion, and a roll call vote was taken.

Bosetti	Aye
Heald	Aye
Marckwald	Aye
Ryneearson	Aye
O'Dell	Aye
Dixon	Aye

The motion was passed by a unanimous vote.

CONTINUED ADVISORY COMMITTEE REPORTS

CALIFORNIA FOREST PEST COUNCIL REPORT

No report this month.

MONITORING STUDY GROUP (MSG)

Mr. Peter Cafferata, CDF, Resource Management Hydrologist, provided a copy of the MSG Update and reviewed for the Board. The opening bid for the Hillslope Monitoring Program (HMP) took place on March 14, 2002. There were three bidders this year. The winning bidder was ECORP. This year's HMP sample includes 43 THPs and seven NTMPs. He indicated that the interim HMP report for the Board will be written this year and based on data from the first 300 THPs and NTMPs collected from 1996 through 2001.

Mr. Cafferata reported that there were two training sessions on the Modified Completion Report (MCR) monitoring process held on Jackson Demonstration State Forest on March 20 and 21, 2002. There were eight NCRWQB representatives and two from CDF. The total number of CDF inspectors trained in the MCR process stands at 67.

Mr. Cafferata noted that information is still being gathered for the Watershed Reference Catalog. He announced that the next MSG meeting is scheduled for April 23, 2002, at Howard Forest. He then reviewed agenda items for that meeting.

PROFESSIONAL FORESTERS EXAMINING COMMITTEE (PFEC)

Mr. George Gentry, Executive Office for Foresters Licensing, reported that the PFEC has not met since the last Board meeting. The next PFEC meeting is scheduled for April 18, 2002. He noted that the RPF exam would be on April 12, 2002. There are 48 applicants who had been approved to take the exam, however six have requested postponement.

He asked for Board action regarding a request for license reinstatement, from withdrawal status, for William Orme, RPF 2056.

02-04-7 Mr. Ryneearson moved to approve the request for reinstatement of the license of William Orme, RPF 2056. Mr. O'Dell seconded the motion, and all were in favor.

REPORT OF THE DIRECTOR

Ms. Andrea Tuttle, Director of Forestry and Fire Protection, provided the Board with an overview of the meeting with the Budget Committee. The Committee allowed CDF to review its entire package. The Committee wants to continue its review of the THP fees issue. There will be a work group consisting of all stakeholders on this issue and they will look into a no fee option. She indicated that the Board's budget was not a problem. She reviewed the concerns of the upcoming fire season and the lack of sufficient funds available through the FRIF. She noted that there would be a Senate hearing on April 18, 2002.

Director Tuttle then reviewed legislation for the Board.

Mr. Bosetti noted that the U. S. Forest Service reported that it has had some requests for severity funds due to the dry conditions in the federal forests. He asked if the Department was working on a budget reduction plan for CDF.

Director Tuttle said that there is a need to prepare a contingency plan if the FRIF fund cannot be back filled. The Department is in the initial stages of its contingency planning mode.

HEARING TO CONSIDER AMENDMENT OF §1104.1(a), TITLE 14, CCR, ADDRESSING STATUTORY CHANGES

Chairman Dixon introduced the topic.

Mr. Jim Mote, Regulation Coordinator for the Board, provided an overview of the issue. He reviewed section 1104.1(a) of the California Code of Regulations (CCR). This proposed rule amendment is a result of AB 671, which changed Public Resources Code §4584. It limits the use of conversion exemptions to once every five years for a person or a corporation. The Bill requested that the meaning of "bona fide intent" be documented. The Bill required that inspections be authorized and that the conversion be terminated if it changes ownership. The Bill also allowed for a procedure to provide a waiver for the five-year limit. He noted that the language was noticed on February 15, 2002, through the Daily Recorder and the Board's web-site.

Mr. Ryneanson noted that once the language is adopted that it becomes effective on July 1, 2002.

Mr. Dennis Hall, CDF, referred to the Department's letter of support in the Board's binder. He indicated three minor grammatical issues the Department would like for the Board to address. The Board has changed the word "subdivision" to "section" in other places in the rules and the Department believes it would be appropriate to change "subdivision" to "section" or "subsection" on page one, line eleven. Then on page four, lines 19 and 20; consistent with other sections in the rules, the word "or" should be moved from line 20 to line 19 so that it reads, "submit a notice or;" and on page 5 at the top, the automatic numbering broke a sentence and the lettering needs to be corrected.

Mr. Gaylon Lee, State Water Resources Control Board (SWRCB), said that the SWRCB supports the language as written. He then referred to a letter from the Lahontan Regional Water Quality Control Board in the Board's binder. He reviewed the concerns of the Water Board regarding the possibility of a 3-acre conversion exemption being filed and followed immediately by a larger conversion THP. The problem would be that the Review Team would have no opportunity to review the 3-acre exemption, which could have water quality impacts. He asked that the Board take this into consideration.

Mr. Rynearson said that language could be added. He noted that under this piece of Legislation, the Board only has the authority to change the regulations that are consistent in the law.

Public comment

Mr. Doug Ferrier, a private consulting forester, referred to his letter in the Board's binder. He urged the Board to eliminate the entire proposed wording in 1104.1(a) (6). Law mandates that most of the proposed rule changes be made, and the Board has no choice but to pass them. However, the proposal before the Board would significantly impact people that need to do legitimate timberland conversion. The proposal goes beyond the requirement under AB 671. The specific language in Title 14, Section 1104.1(a)(6) is not required by law to be changed and should not be passed by the Board.

Mr. Richard Gienger referred to page five, line five and the words "one the" he indicated that the word "of" should be inserted so that it reads, "one of the." He expressed his agreement with the comments of Gaylon Lee, and disagreed with those of Doug Ferrier.

Mr. William Hultgren, California Licensed Foresters Association (CLFA), believes that the proposed rule package places the landowners between the agencies. He expressed his hope that the Legislature would consult with the Board in the future. He believes that the four items in 1104.1(a)(6) go beyond the Legislative mandate.

Mr. Mark Rentz, California Forestry Association (CFA), encouraged the Board to look at the four requirements in 1104.1(6). He questioned the necessity for that language and asked that the Board consider deleting those four items. He believes that under Section 1104.1(a), the language referring to partnerships and corporations goes beyond the Legislative intent.

Mr. Kent Stromsmoe spoke in support of the inclusion of 1104.1(6)(a-d). He believed that language could have been extended to include, documentation of perc test and a variety of other things. He suggested that the Department take the concerns of the Lahontan Water Board into consideration should it get a THP or a conversion THP soon after a conversion exemption and refuse that THP on that basis.

Mr. Richard Gienger said that he believes that page five, line 19 (d) would meet the concerns of CFA.

02-04-8 Mr. Rynearson moved to close the public hearing. Mr. Bosetti seconded the motion, and all were in favor.

Mr. Rynearson asked Counsel if item 6 (a-d) on page four meets the standard of the Legislation.

Mr. Bosetti said that it also appears that section 1104.1(a)(6) connects with a section on page 2, lines 2 and 3.

Mr. Mathew Campbell, Deputy Attorney General and Board's Counsel, said that the Legislation the Board is implementing through this rule package does not specifically require documentation of a bona fide intent to complete the conversion. The Board has some latitude within the scope of the statute to develop its own list.

Mr. Marckwald asked Counsel if it would be correct to assume that the Legislature was directing for the Board to define it.

Mr. Campbell said that the common sense interpretation would be that the Legislature is intending for the Board to develop the required documentation.

Mr. Rynearson noted that the Legislation reads, "to identify the required documentation of a bona fide intent to conversion".

Mr. Bosetti believes that the package goes beyond what is needed.

Mr. O'Dell questioned if the timberland owner would have the obligation to guarantee that the conversion not fail. He believes that a good effort should be all that should be expected of the timberland owner.

Mr. Marckwald said that he did not see a burden on the timberland owner in terms of having to provide more information on their intent.

02-04-9 Mr. Heald moved to adopt the package with the changes offered by the Department, specifically on page one line 11, "subdivision" becomes "subsection;" on page four lines 19 and 20, the comma goes after item one, not in front of item two; on page five the "f" becomes "e;" and the item labeled "E" on line one is clearly attached to "D" on the proceeding page; on page five, line five between the words "one the" insert the word "of" so that it reads, "one of the;" and delete on page four, part six, lines seven and eight, that would be the 6(d) section. Mr. Marckwald seconded the motion, and a roll call vote was taken.

Bosetti	Nay
Heald	Aye
Marckwald	Aye
Rynearson	Nay
O'Dell	Nay
Dixon	Aye

The motion failed with a 3-3 vote.

Mr. O'Dell said that it was the water requirement that was troubling to him, holding the landowner to that standard within the exemption.

Mr. Heald asked why water is something member O'Dell believes should not be thought through as part of a bona fide intent.

Mr. O'Dell said that domestic use has a much higher requirement than agricultural use for non-domestic water quality. Water that might be suitable for irrigation or stock watering might not be suitable for domestic consumption. Someone building a house would want to have a reliable water source for that residence. For someone wanting to put in an orchard or convert to vines or grazing, why would it be necessary to demonstrate to the state that they have adequate water on site. They might be willing to haul it in or import it from another source. He did not believe that it is within the purview of the state to determine what kind of quality and the quantity of water they have for the enterprise.

Mr. Heald said that he concurred with that point of view. However, the demonstration of how bona fide the intent is, includes documentation that they have the capacity to do a project and that they understand what their needs are. He did not believe that this restricts the source.

02-04-10 Mr. O'Dell moved to not adopt (c)&(d) in item six, and to adopt all the other items in the previous motion. Mr. Rynearson seconded the motion, and a roll call vote was taken.

Bosetti	Aye
Heald	Nay

Marckwald	Aye
Rynearson	Aye
O'Dell	Aye
Dixon	Aye

The motion passed by a 5-1 vote.

STANDING COMMITTEE REPORTS

RESOURCE PROTECTION COMMITTEE (RPC)

Mr. Bosetti, Chair of the RPC, reported that the Committee was briefed by the Chief Deputy Director on the Department's presentation to the Budget Hearings specific to fire protection. He then introduced the new Assistant Deputy Director of Fire Protection, Rich Just.

Mr. Bosetti noted that the Southern Region Chief reported that the special staffing pattern, effect in early March, had been lifted. The Northern Region Chief reported on a training session in Redding hosting the National Association of State Foresters. He reported that the Department was working on mitigating measures for engines and crews working in areas affected by Sudden Oak Death. (Copies of these reports are available in the Board Office).

Mr. Bosetti reported that the representative from the Department of Fish and Game reported that they held the first of two fire training sessions in March. He noted that the CDF and Department of Fish and Game (DFG) Memorandum Of Understanding (MOU), that is in place, regarding Pre-and Post Fire activities is still ongoing. The representative from the CDF Fire Fighters Union reported that the dedication of the Fire Fighters Memorial would take place on Saturday, April 6, 2002, on the East Lawn of the Capital.

INTERIM COMMITTEE

Mr. Heald, Chair of the Committee, reported that the Committee discussed the stocking credit for retention of large trees and large snags. The Committee reviewed an adjustment to the language defining decadent and damaged trees by DFG. Also, whether this item would be reasonable incentives for people to retain and recruit these special elements across the landscape. Members of the public suggested adding elements to the package. They will submit those suggestions within two weeks for Committee consideration so that the package can be then sent to the full Board.

Mr. Heald said that there was a continued review of Oak Retention Standards. Following that discussion, it was agreed that member Heald and a representative from DFG would work together to develop additional language to the cumulative effects section addressing sustainable hardwoods. Also, there was a brief discussion on retention of hardwoods for wildlife habitat, which will continue at the Committee's next meeting.

Mr. Heald reported that the Committee had a brief discussion on the Sensitive Species classification issue. The Committee recommends that the Board appoint an *ad hoc* group to provide advice to the Committee on what should be the general objective of the Sensitive Species rule. The group should include members from DFG, CDF, biologist from the North Coast and the Sierra that work on industry lands, and a few members of the public. This would provide an independent look at the options. The Sensitive Species issue will go back to Committee in the next few months.

Mr. Heald said that there was a brief discussion regarding inter-agency proposal for amending regulations affecting exemptions and emergencies. The Committee would like for the Board to encourage the inter-agency group that met last year to meet again regarding the dead, dying,

and disease exemption. This will move the Committee along in its effort to present the Board with a recommendation for action later this year.

Mr. Heald said that there was a discussion of policy for a timely Board review of the Department's implementation of Board rule changes. The Committee would like for the Board to put on its agenda, in the future, a discussion that would have two parts relative to newly passed regulations requesting that early in the year the Department present information to the Board about what CDF was doing to implement a new regulation. Later in the year, the Department would report on the implementation of new regulations to the Board.

Mr. Heald reported that the Committee discussed an amendment relative to time frames when the Board must act on proposed decisions by the ALJ relative to Civil Penalties. The Executive Officer presented the Committee with an alternative that would make it possible for the Board to obtain transcripts, when needed, without violating Board regulation time periods. The Committee lends its full support to make the change from 45 to 60 days.

AD HOC WATERSHED COMMITTEE (AD HOC)

Mr. Ryneanson, Chair of the *Ad Hoc* Committee, reported that the Committee began its review of the potential Road Rules and Road Management Plan. The Committee will move forward with a line by line review of the Road Rules package that was not adopted by the Board last year. The Committee is now revisiting that package for permanent rules that would address roads, skid roads, and landings. These would come out of the Threatened and Impaired package and become a permanent rule package for Board consideration. The Committee will also consider which part of that package would best fit the Roads Management Plan. Following that review, the next step would be the development of the Roads Management Plan package.

REPORT OF THE EXECUTIVE OFFICER

Mr. Daniel Sendek, Executive Officer for the Board, announced that the May Board meeting would be held in Fresno and would be a joint meeting with the Fish and Game Commission. Also, the Interim and Ad Hoc Committees will have a joint meeting in Fresno. The field trip will be on Tuesday, May 6, 2002.

Mr. Sendek provided an update on current legislation for the Board. He then reported that the Board's October meeting date has been moved up from October 8, 9, and 10, to October 1, 2, and 3, 2002. The meeting will be here in Sacramento.

NEW AND UNFINISHED BUSINESS

Mr. Marckwald reported that he would not be attending the June Board meeting due to prior commitments.

Mr. Richard Gienger asked if the Board was going to act on the requested amendment from the Interim Committee to the time period for review of Civil Penalties package.

Mr. Heald said that it was recommended out of Committee and suggested that Board staff prepare a 45-Day Notice for the extension of the time period for review of Civil Penalties from 45 to 60 days. There was Board consensus and staff was directed to prepare the notice.

Mr. Gienger then asked the Department how the new formation of the Native American Advisory Council was coming along.

Mr. Ross Johnson, CDF Deputy Director of Resource Management, said that a nine-member Native American Advisory Council has been appointed. The first meeting will be schedule during the next couple of months.

ADJOURNMENT

Chairman Dixon adjourned the April 2002 meeting of the Board.

Respectfully submitted,

ATTEST:

Daniel R. Sendek
Executive Officer

Stan Dixon
Chairman

Copies of the attendance sheets can be obtained from the Board Office.